

AGENDA — December 19, 2001, Business Taxes Committee Meeting
Proposed New Chapter for the Compliance Policy and Procedures Manual,
Chapter 8 (Consumer Use Tax)

<p>Action 1 — Consent Item(s)</p> <p>Proposed New Chapter for the Compliance Policy and Procedures Manual, Chapter 8 (Consumer Use Tax).</p>	<p>Adopt staff's proposed chapter as illustrated in Exhibit 2. The proposed new chapter will include:</p> <ul style="list-style-type: none"> Consolidation of consumer use tax information that is currently located throughout the CPPM. Recent policy and procedural changes to sections that were previously included in other chapters. Information on new work processes resulting from changes in technology. Non-substantive changes in grammar and format.
<p>Action 2 — Approval to Publish</p>	<p>Approve the publication of the proposed new chapter for the Compliance Policy and Procedures Manual, Chapter 8 (Consumer Use Tax), as adopted in the above action.</p> <p>Operative Date: None Implementation: Upon Board approval.</p>

AGENDA — December 19, 2001, Business Taxes Committee Meeting
Proposed New Chapter for the Compliance Policy and Procedures Manual,
Chapter 8 (Consumer Use Tax)

Action Item	Staff's Proposed Language
Action 1 — Consent Item(s) Proposed New Chapter for the Compliance Policy and Procedures Manual, Chapter 8 (Consumer Use Tax).	Refer to Exhibit 2 for proposed text.

rev. 3-26-01

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Issue Paper Number 01 -038 ☐



- ☐ Board Meeting
- ☒ Business Taxes Committee
- ☐ Customer Services and Administrative Efficiency Committee
- ☐ Legislative Committee
- ☐ Property Tax Committee
- ☐ Other

Proposed New Chapter for the Compliance Policy and Procedures Manual - Chapter 8 (Consumer Use Tax)

I. Issue

Should the proposed new Chapter 8, *Consumer Use Tax*, be incorporated into the Compliance Policy and Procedures Manual?

II. Staff Recommendation

Staff recommends that the proposed new Chapter 8, illustrated in Exhibit 2, be incorporated into the Compliance Policy and Procedures Manual (CPPM). The proposed new chapter will include:

Consolidation of consumer use tax information that is currently located throughout the CPPM.

Recent policy and procedural changes to sections that were previously included in other chapters.

Information on new work processes resulting from changes in technology.

Non-substantive changes in grammar and format.

Staff recommends no operative date since the proposed chapter reflects current administrative policies and procedures.

III. Other Alternative(s) Considered

Do not incorporate the proposed new Chapter 8, *Consumer Use Tax*, into the CPPM.

Issue Paper Number 01-037

IV. Background

The CPPM is the State Board of Equalization's (Board) guide for compliance functions including taxpayer registration, account maintenance, closeouts and clearances, and collections. The chapters contained within the CPPM incorporate procedures and techniques that have evolved over the years and have proven to be sound and practical. Board employees follow these procedures to help ensure fair and uniform treatment of taxpayers. The purpose of this new chapter is to provide a better understanding of the functions, procedures and responsibilities of the Consumer Use Tax Section. The proposed chapter consolidates sections regarding consumer use tax issues that are currently located throughout the CPPM and provides a more detailed explanation of the functions of the Consumer Use Tax Section. Specifically, staff recommends that CPPM sections 510.100-510.130 be moved to this new chapter and expanded. Also, new sections on the sources of information (sections 805.000-805.035), the U.S. Customs program (sections 815.400-815.430), the Foreign Registered Vessel and Aircraft program (sections 815.500-815.525), and installment payment agreements (section 850.010) are recommended for inclusion in this chapter.

The Consumer Use Tax Section (CUTS) administers the Sales and Use Tax Law as it applies to the following:

- Purchases of vehicles and mobilehomes from persons not licensed or certificated pursuant to the Vehicle Code and Health and Safety Code;

- Purchases of vessels from a person not required to hold a seller's permit by reason of the number, scope, and character of the person's sales of vessels;

- Purchases of aircraft from a person not required to hold a seller's permit by reason of the number, scope, and character of the person's sales of aircraft;

- Purchases made in foreign countries and hand carried through U.S. Customs by California residents.

The proposed CPPM Chapter 8 is scheduled for consideration by the Business Taxes Committee on December 19, 2001. On August 23, 2001 and October 11, 2001, staff held interested parties meetings to discuss the proposed chapter. As a result of these meetings, additional non-substantive changes were incorporated into the chapter.

Although this is a new chapter being added to the CPPM, many sections that relate to consumer use tax issues have been consolidated from other chapters within the CPPM. There also have been some changes to sections that have been consolidated from the other chapters. Many of these changes are non-substantive. These include a change in references from "pamphlets" to "publications," a change in the prefix of forms from "BT" to "BOE," a change in the name and number of forms due to revisions, and information on changes to the registration system due to new technology. In addition, due to reorganizations, unit name changes have been made.

Issue Paper Number 01-037

V. Staff Recommendation

A. Description of the Staff Recommendation

Staff recommends that the proposed Chapter 8, *Consumer Use Tax*, be incorporated into the Compliance Policy and Procedures Manual, as illustrated in the attached draft (Exhibit 2). Staff recommends no operative date since the proposed chapter reflects current administrative policies and procedures.

The new chapter is comprised of the following sections:

1. General Statement On Consumer Use Tax. This section gives the background of the Consumer Use Tax Section including its scope of responsibility.
2. Sources of Information. This section details the agencies that provide information to CUTS pertaining to potential use tax liabilities. These sources include the Department of Motor Vehicles (DMV), the Department of Housing and Community Development (HCD), the Federal Aviation Administration (FAA), the United States Coast Guard (USCG), the United States Customs Service (USCS), and the County Assessors' Offices.
3. Registration of Consumer Use Tax Accounts. This section details the procedures for the on-line input of source documents and related information and gives details of the Taxable Activity Types and Taxable Activity Type Indicators used by CUTS.
4. Consumer Use Tax Programs. This section details the various programs that are the responsibility of CUTS. These include vehicles/mobilehomes, vessels (including documented and undocumented vessels), aircraft, U.S. Customs, and the foreign registered vessel and aircraft program (FRVAP).
5. Exemptions and Exclusions. This section details some of the most common exemptions and exclusions to the California Use Tax. These include, but are not limited to, not purchased for use in California, interstate or foreign commerce, commercial deep sea fishing, aircraft sold to common carriers, family transfers, and gifts.
6. Certificate of Use Tax Clearance (BOE-111 and BOE-111-B). This section details the process for registering a vehicle, motorhome, commercial coach, and/or undocumented vessel without the payment of use tax. In addition, the preparation and processing of Forms BOE-111, BOE-111-B, and BOE-106 is explained.
7. Determinations, Demands and Statements. This section explains how billings are issued for use tax liabilities and how penalty and interest applies to the liabilities.
8. District Office Responsibilities. This section details the district office responsibilities regarding the processing of voluntary use tax payments and the investigation of use tax accounts referred to the district offices.
9. Miscellaneous. This section covers the statute of limitations, installment proposals, and requests for DMV information.

Issue Paper Number 01-037

B. Pros of the Staff Recommendation

Polices and procedures described in CPPM Chapter 8 will be consistent with current Board policies and procedures.

Consolidates information on consumer use tax issues into one chapter.

Clarifies and communicates the policies, procedures, and responsibilities of the Consumer Use Tax Section.

C. Cons of the Staff Recommendation

None.

D. Statutory or Regulatory Change

No statutory or regulatory change is required.

E. Administrative Impact

Following approval by the Business Taxes Committee, CPPM Chapter 8 will be distributed to all holders of the CPPM and placed on the Board's Internet web site.

F. Fiscal Impact

1. Cost Impact

The costs for maintenance and distribution of CPPM chapters are routine and included in the Board's annual budget.

2. Revenue Impact

None. See Revenue Estimate (Exhibit 1).

G. Taxpayer/Customer Impact

Board procedures will be current in CPPM Chapter 8, eliminating potential errors that could negatively impact taxpayer/customer businesses.

H. Critical Time Frames

No operative date is proposed. Upon Business Taxes Committee approval, the new CPPM Chapter 8 will be posted on the Board's website and distributed to Board staff.

VI. Alternative 1

A. Description of the Alternative

Do not incorporate the new Chapter 8, *Consumer Use Tax*, into the CPPM.

Issue Paper Number 01-037

B. Pros of the Alternative

None.

C. Cons of the Alternative

Policies and procedures regarding consumer use tax issues described in the CPPM will not be updated with current Board policies and procedures, nor available to the staff and public for ready reference.

D. Statutory or Regulatory Change

None.

E. Administrative Impact

Procedural information that staff needs to ensure fair and uniform treatment of taxpayers will not be available in one location for ready reference.

F. Fiscal Impact

1. Cost Impact

None.

2. Revenue Impact

None. See Revenue Estimate (Exhibit 1).

G. Taxpayer/Customer Impact

Board procedures regarding consumer use tax issues will not be current in the CPPM, leading to potential errors that could negatively impact taxpayer/customer businesses.

H. Critical Time Frames

None.

Prepared by: Program Planning Division, Sales and Use Tax Department

Current as of: 11/27/01

REVENUE ESTIMATE

STATE OF CALIFORNIA
BOARD OF EQUALIZATION



PROPOSED NEW CHAPTER FOR THE COMPLIANCE POLICY AND PROCEDURES MANUAL CHAPTER 8, *CONSUMER USE TAX*

Staff Recommendation

Staff recommends that the proposed new chapter, illustrated in Exhibit 2 of the issue paper, be incorporated into Chapter 8 of the Compliance Policy and Procedures Manual (CPPM). The proposed new chapter will include:

- Consolidation of consumer use tax information that is currently located throughout the CPPM.

- Recent policy and procedural changes to sections that were previously included in other chapters.

- Information on new work processes resulting from changes in technology.

- Non-substantive changes in grammar and format.

Staff recommends no operative date since the proposed chapter reflects current administrative policies and procedures.

Alternative 1

Do not incorporate the proposed new Chapter 8, *Consumer Use Tax*, into the CPPM.

Background, Methodology, and Assumptions

Staff Recommendation:

There is nothing in the proposed new Chapter 8 for the Compliance Policy and Procedures Manual that would impact revenues.

Alternative 1:

Alternative 1 has no revenue effect.

Revenue Estimate

Revenue Summary

The staff recommendation has no revenue effect.

The alternative proposal has no revenue effect.

Preparation

This revenue estimate was prepared by David E. Hayes, Research and Statistics Section, Agency Planning and Research Division. This revenue estimate was reviewed by Ms. Laurie Frost, Chief, Agency Planning and Research Division and Ms. Charlotte Paliani, Program Planning Manager, Sales and Use Tax Department. For additional information, please contact Mr. Hayes at (916) 445-0840.

Current as of November 15, 2001

Compliance Policy and Procedures Manual

Chapter 8

Consumer Use Tax



Sales and Use Tax Department
California State
Board of Equalization

This is an advisory publication providing direction to staff administering the Sales and Use Tax Law and Regulations. Although this material is revised periodically, the most current material may be contained in other resources including Operations Memoranda and Policy Memoranda.

Please contact any Board office if there are concerns regarding any section of this publication.

CHAPTER VIII

TABLE OF CONTENTS

CONSUMER USE TAX.....	800.000
GENERAL.....	800.005
Background.....	800.010
Scope of Responsibility	800.020
SOURCES OF INFORMATION.....	805.000
Department of Motor Vehicles.....	805.005
Department of Housing and Community Development.....	805.010
Federal Aviation Administration.....	805.015
United States Coast Guard	805.020
United States Customs Service	805.025
County Assessor Offices.....	805.030
Miscellaneous Leads	805.035
REGISTRATION OF CONSUMER USE TAX ACCOUNTS.....	810.000
Registration Defined	810.005
Source Information File System (SIF).....	810.010
Taxable Activity Registration - Consumer Use Tax (CUT).....	810.015
Taxable Activity Type (TAT)	810.020
Taxable Activity Type Indicators	810.025
Tax Rate	810.030
Tax Area Codes.....	810.035
CONSUMER USE TAX PROGRAMS	815.000
Vehicles/Mobilehomes	815.100
Source Information	815.105
Persons Required to File Returns	815.110
Measure and Due Date.....	815.115
Exemptions and Exclusions	815.120
Additional Information	815.125
Vessels	815.200
Source Information	815.205
Documented Vessel	815.210
Persons Required to File Returns - Documented	815.215
Measure and Due Date	815.220
Undocumented Vessel.....	815.225
Persons Required to File Returns - Undocumented	815.230
Measure and Due Date.....	815.235
Exemptions and Exclusions	815.240
Additional Information	815.245
Aircraft	815.300
Source Information File	815.305
Persons Required to File	815.310
Measure and Due Date.....	815.315
Exemptions and Exclusions	815.320
Additional Information	815.325

COMPLIANCE POLICY AND PROCEDURES MANUAL

U.S. Customs.....	815.400
Source Information File	815.405
Taxable Activity Registration	815.410
Returns	815.415
Measure and Due Date.....	815.420
Exemptions and Exclusions	815.425
Additional Information	815.430
 Foreign Registered Vessel and Aircraft Program.....	 815.500
Source Information	815.505
Returns	815.510
Measure and Due Date.....	815.515
Exemptions and Exclusions	815.520
Additional Information	815.525
 Mail Order Program.....	 815.600
 EXEMPTIONS AND EXCLUSIONS	 820.000
Not Purchased for Use In California.....	820.005
Interstate or Foreign Commerce.....	820.010
Commercial Deep Sea Fishing.....	820.015
Aircraft Sold to Common Carriers.....	820.020
Family Transfers	820.025
Gift	820.030
Other Exemptions	820.035
Purchases for Resale	820.040
Military Personnel.....	820.045
Indian Reservations.....	820.050
Purchases from U.S. Government.....	820.055
Foreign Consul.....	820.060
 CERTIFICATE OF USE TAX CLEARANCE (BOE-111 AND BOE-111-B)	 825.000
BOE-111 and BOE-111-B	825.005
DMV/HCD Processing	825.010
CUTS Processing	825.015
District Office Processing.....	825.020
Preparation of Form BOE-106, Vehicle/Vessel Use Tax Information.....	825.025
Referrals to CUTS.....	825.030
Exemptions	825.035
Preparation of Form BOE-111 or Form BOE-111B	825.040
 DETERMINATIONS, DEMANDS AND STATEMENTS	 830.000
Penalty and Interest.....	830.005
Request for Relief of Penalty and/or Interest.....	830.010
Petitions	830.015
Refunds	830.020
Collections	830.025
 DISTRICT OFFICE RESPONSIBILITIES.....	 840.000
Voluntary Payments.....	840.005
Referral of Accounts to Districts.....	840.010
 MISCELLANEOUS INFORMATION	 850.000
Statute of Limitations.....	850.005
Installment Payment Agreements	850.010
Request for DMV Information.....	850.015

CHAPTER VIII

CONSUMER USE TAX

800.000

GENERAL

800.005

The Consumer Use Tax Section (CUTS) administers the Sales and Use Tax Law as it applies to the purchases of vehicles and mobilehomes from persons not licensed or certificated pursuant to the Vehicle Code and Health and Safety Code; or in the case of vessels and aircraft, from a person not required to hold a seller's permit by reason of the number, scope, and character of the person's sales of the same; and, to purchases made in foreign countries and hand carried through U.S. Customs by California residents.

The purpose of this chapter is to provide a better understanding of the functions, procedures and responsibilities of the Consumer Use Tax Section.

The information provided in this chapter does not apply to other types of property purchased for use in California. Please refer to CPPM 215.000 on Consumer Use Tax permits (SU) and Certificate of Use Tax Registration (SC).

BACKGROUND

800.010

Prior to July 1, 1996, the Consumer Use Tax Section, formerly known as the Occasional Sales Unit, administered statewide programs regarding use tax transactions pertaining to vehicles, vessels, aircraft, and mobilehomes by non-dealers, and the use tax due on out of state purchases hand-carried through U.S. Customs. The section was responsible for all aspects of compliance including the collection of final liabilities for accounts established by CUTS.

On July 1, 1996, the collection of final liabilities on CUTS accounts transitioned to the Centralized Collection Section (CCS), along with collection support functions such as requests for Employment Development Department information, credit reports and other skip trace information.

CUTS staff continue with the responsibility of reviewing source leads, establishing accounts, encouraging voluntary compliance through the filing of returns, and issuing billings for the Taxable Activity Types (TATs) CUTS administers.

CUTS is part of the Headquarters Operations Division of the Sales and Use Tax Department of the Board of Equalization. CUTS reports to the Headquarters Operations Manager and is comprised of three teams based upon tax programs – Vehicles and Special Projects (includes Customs); Vessels (includes maintenance of section master files) and Aircraft (includes the registration of CUTS accounts).

SCOPE OF RESPONSIBILITY

800.020

The Consumer Use Tax Section is responsible for the review and establishment of accounts based upon source information identifying potential use tax leads. These sources of use tax leads include, but are not limited to, the Department of Motor Vehicles (DMV), Housing and Community Development (HCD), U.S. Coast Guard (USCG), Federal Aviation Administration (FAA), U.S. Customs Service (USCS), County Assessors' Offices, district office referrals, and CUTS' Foreign Registered Vessel and Aircraft Program (FRVAP).

The section encourages voluntary payment of use tax by providing returns, evaluating documentation submitted to support claimed exemptions, and providing advisory services by telephone or correspondence on the application of the laws and regulations to specific transactions. CUTS issues Notices of Determination using available data and resources to support the assessment of taxes due in the absence of voluntary compliance.

In addition, CUTS acts as a liaison with various county, state, and federal agencies and provides assistance to Board staff in the district and Headquarters sections.

SOURCES OF INFORMATION

805.000

The following agencies provide the majority of information pertaining to use tax liabilities.

DEPARTMENT OF MOTOR VEHICLES (DMV)

805.005

At the time of registration DMV acts as an agent for the Board and collects the use tax due on the private party transfers of vehicles in California. DMV also registers undocumented vessels (as defined in CPPM 815.225) for the State of California as an agent for the Department of Boating and Waterways.

Each week DMV provides information to CUTS pertaining to vehicle and undocumented vessel registrations and transfers that meet certain criteria for potential use tax assessment.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD)

805.010

HCD acts as an agent for the Board and collects the use tax due on an original registration or the transfer of ownership of any mobilehome unit sold by any person other than a licensed California dealer. Applications received where there is a discrepancy in the purchase price or indication of an intervening owner are flagged and forwarded to CUTS for further review.

FEDERAL AVIATION ADMINISTRATION (FAA)

805.015

Each month, CUTS obtains all of FAA's month-end Master Registration Files. Files are matched against the prior month and any changes made to aircraft registered to a California address are captured. The information is processed and added to CUTS' Source Information file where these leads are further reviewed and processed.

UNITED STATES COAST GUARD (USCG)

805.020

CUTS receives the master registration file from USCG on a quarterly basis. Records are compared to the prior quarter and any new transactions reflecting California purchasers or California hailing ports are identified for review.

UNITED STATES CUSTOMS SERVICE (USCS)

805.025

Information from U.S. Customs duty declarations are reviewed by BOE staff on visits made to various California ports of entry for possible taxable activity registration.

COUNTY ASSESSORS' OFFICES – 58 OFFICES STATEWIDE

805.030

Counties where both documented vessels (as defined in CPPM 815.210) and aircraft are located provide the most recent property tax rolls to CUTS. These property tax rolls are compared to FAA and USCG information for any discrepancies in ownership information or indications that the taxpayer has provided the federal government with an out of state address. CUTS staff periodically visits these offices to obtain the information needed to send use tax inquiries.

MISCELLANEOUS LEADS

805.035

CUTS receives leads from other government agencies, district offices and from the public regarding any potential unpaid use tax relating to vehicles, mobilehomes, vessels, aircraft and hand-carried purchases declared through U.S. Customs.

REGISTRATION OF CONSUMER USE TAX ACCOUNTS

810.000

REGISTRATION DEFINED

810.005

Registration is defined as those functions related to the on-line input of data from source documents and related information which result in the establishment of a Taxpayer Identification Number (TIN), a

CONSUMER USE TAX

Source Information File (SIF) and/or a taxable activity account under any Taxable Activity Type (TAT) under certain tax programs administered by the CUTS.

SOURCE INFORMATION FILE SYSTEM (SIF)

810.010

The Source Information File System (SIF) is an electronic database exclusive to CUTS, that is used as a pending registration system for investigation of potential use tax liabilities for vehicles, vessels, and aircraft. Information received from various sources is added to SIF, either electronically or manually, creating a source record for each potential taxable event. SIF allows for the gathering of additional information from sellers, DMV, FAA, or USCG required in the registration process, such as: owner names, purchase dates, and selling prices used to determine if a possible use tax liability and financial obligation exist. If sufficient documentation is received which confirms no use tax liability exists, the source record is closed. If it is determined that a potential use tax liability exists, the source record is registered for a taxable activity creating a financial obligation.

TAXABLE ACTIVITY REGISTRATION - CONSUMER USE TAX (CUT)

810.015

CUTS has the responsibility of creating and maintaining on-line registration of taxable activities regarding purchases made from non-dealers of vehicles, mobilehomes, vessels, aircraft, and purchases hand-carried from outside this state made by California residents.

In order for taxable activity registration to occur the following information is required:

Taxpayer's name and address

Purchase date

Value - either an actual selling price reported by the seller confirmed by a bill of sale or similar document or an estimated market value from a value guide for the item (Kelley Blue Book, Aircraft Blue Book, etc.)

Identifying information of the property (e.g. license plate or VIN # for vehicles; CF numbers or documentation number for vessels; and, tail or "N" number for aircraft)

County where vehicle, vessel or aircraft is stored, moored or hangared (if different than the county of residence for taxpayer)

Optional information that is desirable but not required includes:

Taxpayer's telephone number

Make, model and year

Registration of CUTS accounts begins in the Client Taxpayer System (CTS) - the same process as sales and use tax registrations.

(Reference CPPM 200.030)

Access for field offices and other sections of the Board are limited to view only and "adding comments." If a taxpayer wants to make a voluntary payment of use tax on a vehicle, vessel, aircraft, etc., taxable activity registration can only be done by CUTS. (Please refer to section 840.005 for procedures on voluntary payments.)

Note: Arbitrary account numbers (SRXX 052-000000) are issued for payments received in the district office that do not involve one of the CUTS programs. (See CPPM 295.091)

TAXABLE ACTIVITY TYPE (TAT)

810.020

The Board has **six** separate and distinct Taxable Activity Types (TATs) that represent use tax programs:

1. Consumer Use Tax Accounts. **Taxable Activity Type SU** (District responsibility)

COMPLIANCE POLICY AND PROCEDURES MANUAL

2. Certificate of Registration-Use Tax. **Taxable Activity Type SC** (District responsibility)
3. Vehicle and Mobilehome purchases from non-dealers. **Taxable Activity Type SA** (CUTS responsibility)
4. Vessel purchases from non-dealers. **Taxable Activity Type SB** (CUTS responsibility)
5. Aircraft purchases from non-dealers. **Taxable Activity Type SP** (CUTS responsibility)
6. Purchases from outside the United States by a California resident hand-carried and declared through U. S. Customs. **Taxable Activity Type SI** (CUTS responsibility)

This chapter contains the guidelines for the TATs of **SA, SB, SI, and SP** that are the responsibility of the CUTS. For information regarding TATs SC and SU, refer to CPPM 205.050 and 215.010.

TAXABLE ACTIVITY TYPE INDICATORS

810.025

This indicator identifies the source of information received and used to create the TAT and potential use tax liability. Certain TAT indicators are automatically assigned by the Source Information File (SIF) registration system. The majority are from various electronic sources of information (DMV, FAA, and USCG). Other indicators are manually selected during the registration process. The following table identifies the TAT indicator and its description.

TAT Indicator	Description
A	Intervenor - A multiple transfer occurs when a vehicle/mobilehome, undocumented vessel or aircraft is sold more than once and not all parties register the property with the appropriate agency (DMV, FAA, USCG). The party (or parties) who resold the vehicle, vessel or aircraft without completing registration may owe use tax.
B	Shortage – Information received by CUTS indicates that the purchaser underreported the purchase price subject to use tax at the time of registration with the Department of Motor Vehicles.
C	Value Comparisons – CUTS investigation discloses that there is no bill of sale or similar document in the DMV registration records that would verify the purchase price reported at the time of registration. The market value of the vehicle/undocumented vessel at the time of purchase is greater than the purchase price reported. CUTS sends a letter to the former owner requesting the sales price. If the former owner does not respond, a letter is sent to the purchaser requesting verification of the purchase price. If there is no response from the purchaser, a notice of determination is issued based on the market value of the vehicle/undocumented vessel at the time of purchase.

CONSUMER USE TAX

TAXABLE ACTIVITY TYPES (TAT)

(Cont. 1) 810.025

D	Foreign Deliveries - CUTS receives information returns from manufacturers and dealers who take orders from California residents for delivery of vehicles overseas. Verification is made with DMV in an effort to determine if use tax has been paid. If the payment of use tax cannot be verified, a letter and return is sent to the taxpayer for completion.
E	Mobile Homes - HCD provides CUTS information on purchases of mobile homes that require further investigation for determination of use tax liabilities.
F	Refund – This indicator represents requests for refund of tax and/or penalty paid to DMV.
G	U. S. Coast Guard - USCG provides a CD-ROM containing the master registration file of documented vessels on a quarterly basis. The current data is compared to the information from the previous quarter and changes to or additions of documented vessels registered to a California address are captured and reviewed by CUTS for appropriate action to be taken.
H	FAA Master File – The master file from FAA of all aircraft registered in the United States is matched against the prior month and changes to or additions of aircraft registered to a California address are captured and reviewed by CUTS for appropriate action to be taken.
I	Foreign Registered Vessel/Aircraft - Comparison of County Assessor personal property tax rolls for aircraft and documented vessels with the FAA and USCG registration information. A registration using this TAT indicator indicates that the current owner either registered the vessel or aircraft to an out of state address or failed to register with either USCG or FAA.
J	Customs Hand-Carried - Duty declarations gathered at statewide ports of entry for purchases made in foreign countries and hand-carried through U.S. Customs.
K	Customs Imports – Items imported into this state from another country.
L	Voluntary Payment - A one-time payment made for use tax on the purchase of a vehicle, vessel or aircraft where CUTS has not previously contacted the taxpayer.
O	Broker who Collected Use Tax – Taxpayer confirms use tax collected by the broker, but there is no evidence that the broker remitted the use tax to the Board.
P	Affidavit from Another State - This form is sent by another state's taxing agency that has not imposed its sales/use tax based upon the fact that the purchaser has signed an affidavit claiming the purchase is solely for use in California. CUTS investigates to ensure that use tax has been paid or the purchase is not taxable.
R	District Office Referral - Referrals received from district offices on possible use tax liabilities often found through field audits or leads from compliance activities. Information is forwarded to CUTS for further investigation.
S	Other – Leads from any other source not identified to any other indicator.

TAXABLE ACTIVITY TYPES (TAT)**(Cont. 2) 810.025**

T	Petition/Referral – requests from Petitions Section to establish an account from information revealed during the petition process.
U	Notice to Sellers and Purchasers <i>Notice to Seller</i> - The BOE-447 is a statement that relieves the retailer (seller) of the obligation to collect the use tax from the purchaser, and certifies the vehicle is being purchased for use outside California. The retailer retains the statement and a copy is forwarded to CUTS for investigation of use in California. <i>Notice to Purchaser</i> – The BOE-448 is a statement signed by the delivery person and the purchaser certifying the delivery of the vehicle to an out-of-state location. It is recommended to have the statement notarized at the out-of-state delivery point, with the delivery person and the purchaser both present before the notary. The retailer retains the statement and a copy is forwarded to CUTS. (This statement may also accompany the BOE-447 when applicable).
V	BOE-111 Use Tax Exemption - Requests for BOE-111 (Certificate of Use Tax Clearance) received and processed by CUTS.

TAX RATE**810.030**

The use tax rate is based upon the tax rate in effect on the date of purchase for the location where the vehicle/mobilehome is registered, the vessel is principally used, stored or otherwise consumed – including mooring or berthing, the aircraft is hangared or tied down or the place of use for purchases hand-carried through U.S. Customs.

The place of use determines the tax rate regardless of the location of the property when it is first purchased. For example, a resident of Sacramento (tax rate 7.50% in 2001) purchases a vessel in Santa Cruz (tax rate 8.00% in 2001) to keep in a slip in San Mateo. The tax rate charged would be in accordance with the location the vessel is moored or berthed which is 8.00% in 2001 for San Mateo County.

TAX AREA CODES**810.035**

For CUTS accounts, the three-digit city code is assigned as “999” for tax to be apportioned among the county and all local tax jurisdictions within the county (as indicated by the first two digits). Since DMV and HCD (agents) also collect the use tax at the time of registration, the tax is allocated in this manner.

References: CPPM 230.030 and Business Taxes Code Book

CONSUMER USE TAX PROGRAMS 815.000

VEHICLES/MOBILEHOMES 815.100

SOURCE INFORMATION 815.105

By request, DMV submits an electronic tape to CUTS pertaining to vehicle registration and transfers for potential use tax assessments. Information is loaded to the Source Information File (SIF) system and a hard copy source document is created for further investigation.

HCD refers all “Certification of Retail Value and Purchase Price” (HCD476.4) to CUTS for review of a possible intervening owner or if there is question as to the purchase price/value of a mobilehome. These are identified by HCD by attaching a “Pull Notice” (HCD492.4) to the certification.

PERSONS REQUIRED TO FILE RETURNS 815.110

Use tax on the storage, use or other consumption of vehicles and mobilehomes is due and payable by the purchaser at the time of first storage, use or other consumption of the property in California, unless specifically exempt. Registration of a vehicle with DMV or a mobilehome with HCD constitutes filing a return. The use tax will be collected if applicable, by DMV or HCD acting as the Board’s agents, at the time of registration.

Reference: Revenue and Taxation Code section 6292

Any person who purchases a vehicle (as defined in the Vehicle Code) or mobilehome (subject to annual license fees under the Health and Safety Code) for use in California from a person who is not licensed or certificated as a manufacturer, dealer, dismantler, or lessor-retailer, and, who has **not** made application for registration with DMV or HCD shall file a Combined State and Local Consumer Use Tax Return for Vehicles/Mobilehomes and pay the use tax to the Board.

MEASURE AND DUE DATE 815.115

Vehicles – The measure is the total purchase price including cash, the market value of any property given in trade, the payment or assumption of any loan or any other valuable consideration given to the seller.

Mobilehomes – Effective January 1, 1986, the measure is the total contract price or the retail value as determined by the Kelley Blue Book Manufactured Housing and Mobilehome Guide or the NADA Mobilehome Manufactured Housing Appraisal Guide, **whichever is lower**.

Tax is due on or before the last day of the month following the month of purchase.

Reference: Publication 47 - Mobilehomes

EXEMPTIONS AND EXCLUSIONS 815.120

The following are the common types of exemption or exclusions for purchases of vehicles and mobilehomes (See CPPM 820.000):

- Interstate or foreign commerce
- Family transfer
- Not purchased for use in California
- 90-day test (exclusive of time of storage for shipment and shipping)
- 6-month principal use test

6-month interstate commerce principal use test

Gift

ADDITIONAL INFORMATION

815.125

Sales Between Political Jurisdictions – Sales of vehicles between state agencies are not retail sales since the actual ownership remains the same. No tax is due upon application for transfer of registration in these cases. Sales between state agencies and political subdivisions of the state are retail sales and are subject to use tax. (Example: A sale of a fire truck between the California Department of Conservation and the Willow Oak Fire Protection District is a taxable sale.)

Reference: Revenue and Taxation Code section 6005

Salvage Pool Vehicles – Wrecked total loss vehicles are *not* vehicles required to be registered under the Vehicle Code and sales of such wrecked vehicles are the responsibility of the district office as sales of tangible personal property in general.

VESSELS

815.200

SOURCE INFORMATION

815.205

The major sources of information on vessel transfers are DMV and USCG. DMV submits undocumented vessel registration and transfer information by electronic tape (as it does for the Vehicle program) where information is loaded into the Source Information File (SIF) for further review.

Information received from USCG on documented vessels, in the form of a CD-ROM, is compared to the previous quarter's information and any new transactions showing either California purchasers or with California hailing ports are flagged for review. If additional information is needed, Abstracts of Title can be ordered from USCG. Abstracts provide the chain of title and all owners' names, whereas the CD-ROM only provides the name and address of the current managing owner.

DOCUMENTED VESSEL

815.210

A documented vessel is a vessel for which the United States Coast Guard (USCG) has issued a valid marine certificate. "Documentation" is a world wide registration system in lieu of all other registration requirements. Liberian registry or Panamanian registry are common terms used to describe the country of documentation under the International Maritime Law. All commercial vessels of at least five net tons displacement are required to be documented. Pleasure vessels meeting the size requirement may be documented at the owner's option. Documented vessels normally exceed twenty-eight and one half feet (28.5') in length. Vessels 30 feet and more in length are mobile transportation equipment for purposes of Sales and Use Tax Regulation 1661.

PERSONS REQUIRED TO FILE RETURNS FOR DOCUMENTED VESSELS

815.215

Any person who purchases a vessel documented by the USCG for use, storage or other consumption in California shall file a Combined State and Local Consumer Use Tax Return for Vessels or the tear-out panel in Publication 79 and pay the use tax to the Board.

MEASURE AND DUE DATE

815.220

The measure is the total purchase price of the vessel, including cash, the market value of any property given in trade, the payment or assumption of any loan or any other valuable consideration given to the seller. The use tax rate is based on the district where the vessel is principally stored, used or otherwise consumed, such as moored or berthed.

The return must be filed and tax paid (if applicable):

On or before the last day of the calendar month following the month in which a return form is mailed or presented to the taxpayer, **or**,

CONSUMER USE TAX

The last calendar day of the twelfth month following the month in which the vessel was purchased, **whichever period expires earlier.**

Example: Purchase date of 01/15/99. Return mailed to taxpayer on 07/16/99 would have a tax due date of 08/31/99. However a return mailed to the taxpayer on 05/12/00 would have a tax due date of 01/31/00 (which is the last calendar day of the 12th month following the month the aircraft was purchased) and penalty and interest would be due.

UNDOCUMENTED VESSEL

815.225

Any vessel which is not required to have, and does not have, a valid marine certificate issued by the USCG is an undocumented vessel. Under the Federal Boating Safety Act an undocumented vessel must be registered in the state where principally used on the waters. If a state does not have a registration requirement, the USCG performs the function. DMV registers undocumented vessels for the State of California as an agent for the Department of Boating and Waterways (CAL-BOAT).

All undocumented vessels are issued a registration number, which must be displayed on the vessel. Registration numbers start with an abbreviation of the state – California “CF,” Nevada “NV,” etc. Undocumented vessels registered in California should have numbers that read “CF XXXX XX”.

PERSONS REQUIRED TO FILE RETURNS FOR UNDOCUMENTED VESSELS

815.230

Registration of an undocumented vessel with DMV constitutes filing a return. The use tax will be collected, if applicable, by DMV at the time of registration. (Reference: Revenue and Taxation Code section 6294)

Any person who purchases an undocumented vessel for storage, use or other consumption in California from a person other than a vessel dealer holding a seller’s permit, and who has not made application to DMV, shall file a Combined State and Local Consumer Use Tax Return for Vessels and pay the use tax to the Board.

MEASURE AND DUE DATE

815.235

The measure is the total purchase price of the undocumented vessel, including cash, the market value of any property given in trade, the payment or assumption of any loan or any other valuable consideration given to the seller. The use tax rate is based on the district where the vessel is principally stored, used or otherwise consumed, such as moored or berthed.

Tax is due on or before the last day of the month following the month of purchase.

EXEMPTIONS AND EXCLUSIONS

815.240

The following are common types of exemptions or exclusions for purchases of undocumented and documented vessels (See CPPM 820.000):

- Commercial deep sea fishing
- Interstate and foreign commerce
- Family transfer
- Not purchased for use in California
- 90-day test (exclusive of time of storage for shipment and shipping)
- 6-month principal use test
- Gift

ADDITIONAL INFORMATION

815.245

Floating Homes – A houseboat or “floating home” is a “vessel” within the meaning of Revenue and Taxation Code section 6273 if it constitutes personal property and is navigable. The use of the vessel as a residence, the granting of a Homeowner’s Exemption by the County Assessor to the owner, or the number or nature of connections to the vessel from shore do not alone exclude the sale, storage, use or other consumption of the vessel from sales or use tax.

If the property is permanently affixed to real property in a manner to be a permanent addition and the owner is either the owner of the real property or holder of a long term lease comparable to the life of the houseboat or floating home, it is real property not subject to sales or use tax upon transfer. A houseboat or floating home that is not suitable for movement on the water is not a vessel.

AIRCRAFT 815.300

SOURCE INFORMATION FILE 815.305

Each month the master file from FAA of all aircraft registered in the United States is downloaded from the FAA Website and matched against the prior month’s records. Information pertaining to changes to or additions of aircraft registered to a California address are then loaded to the Source Information File (SIF) system and a hard copy source document is created for further investigation by CUTS. The SIF is a pending registration system that allows CUTS the ability to obtain necessary background information required for taxable activity registration.

PERSONS REQUIRED TO FILE 815.310

Any person who purchases an aircraft for use, storage, or other consumption in California from a person other than an aircraft dealer holding a seller’s permit shall file a Combined State and Local Consumer Use Tax Return for Aircraft or the tear-out panel in Publication 79A and pay the use tax to the Board.

MEASURE AND DUE DATE 815.315

The use tax due is measured by the total purchase price of the aircraft, including component parts, unless specifically exempt. The use tax rate is based upon the tax rate in effect on the date of purchase for the district where the aircraft is principally used, stored or otherwise consumed, such as hangared or tied down.

The return must be filed and tax paid (if applicable):

On or before the last day of the calendar month following the month in which a return form is mailed or presented to the taxpayer, **or**,

The last calendar day of the twelfth month following the month in which the aircraft was purchased, **whichever period expires earlier.**

Example: Purchase date of 01/15/99. Return mailed to taxpayer on 07/16/99 would have a tax due date of 08/31/99. However a return mailed to the taxpayer on 05/12/00 would have a tax due date of 01/31/00 (which is the last calendar day of the 12th month following the month the aircraft was purchased) and penalty and interest would be due.

CUTS makes every effort to send timely returns to the taxpayer allowing them to make payment of the use tax without delinquency charges. In most cases, the information is received from FAA and processed by CUTS before the later period identified above. However, in situations where the certification with the Federal Aviation Administration is delayed or never completed, sending of returns with delinquency charges already due is unavoidable. However, as in the case of any late return, the taxpayer may request relief of penalty per Revenue and Taxation Code section 6592.

EXEMPTIONS AND EXCLUSIONS 815.320

The following are the common types of exemptions or exclusions for purchases of aircraft (See CPPM 820.000):

Common carrier

CONSUMER USE TAX

Interstate of foreign commerce

Family transfer

Not purchased for use in California

90-day test (exclusive of time of storage for shipment and shipping)

6-month principal use test

6-month interstate commerce principal use test

Gift

ADDITIONAL INFORMATION

815.325

Gliders, sailplanes, and balloons are not powered and are not aircraft as defined in Revenue and Taxation Code section 6274.

U.S. CUSTOMS

815.400

The U.S. Customs Program was formed as a result of the 1984 Tax Penalty Amnesty Bill (AB 3230 – Hannigan.) The act mandated a post-amnesty intensified enforcement program to collect unpaid sales tax from retailers and use tax from consumers. In 1990, the state's budget included funding for an enforcement program to collect use tax from residents based on declarations made to the U.S. Customs Service.

Since 1935 the use tax law has been in effect in California as a complement to the sales tax. The use tax serves two purposes: (1) it prevents California merchants from suffering a competitive disadvantage with respect to out-of-state merchants; and (2) it assures that all persons in the state contribute fairly to the funding of state and local programs whether they choose to make purchases in California or outside the state.

SOURCE INFORMATION

815.405

On a yearly basis, U.S. Customs Service (USCS) grants CUTS authorization to access passenger declarations filed at various ports of entry throughout California. Both CUTS and district office staff make regular on-site visits to gather information from declarations to register and generate use tax returns for voluntary compliance. Unlike other CUTS programs, the customs information is **not** entered into the Source Information File system (SIF).

TAXABLE ACTIVITY REGISTRATION

815.410

The following information must be present in order to register for taxable activity:

Purchaser's full name

California address

Total amount of purchases (in U.S. dollars)

RETURNS

815.415

Any California resident who hand-carries merchandise purchased from a retailer outside the United States or in a foreign country into this state for storage, use or consumption, unless specifically exempt, may be mailed a Combined State and Local Consumer Use Tax Return for Customs Declarations to pay the use tax to the Board.

MEASURE AND DUE DATE

815.420

The measure is the total purchase price of property hand carried into California, less the \$400 exemption per person, not previously claimed within a 30-day period.

Tax is due on or before the last day of the calendar month following the month of the date of entry into California.

Reference: Revenue and Taxation Code sections 6246, and 6405, Publication 39

EXEMPTIONS AND EXCLUSIONS

815.425

The following are common types of exemption and exclusions for purchases of tangible personal property from the customs program (See CPPM 820.000):

Items purchased for resale

Items not purchased for use in California

Items *received* as gifts

Other exempt purchases

Note: Items which are exempt from federal duty may not be exempt from the use tax. Conversely, purchases of items which may be subject to federal duty, such as food products (except alcoholic beverages and vitamins) or prescriptions medicines, may not be subject to the use tax.

ADDITIONAL INFORMATION

815.430

Requests for amendments to duty declarations are handled by the U.S. Customs Service and should be referred to the nearest customs office. If the amendment results in an adjustment of the total amount of purchases, documentation should be provided to CUTS.

California does not have a reciprocal agreement with other countries involved in the Value Added Tax (VAT) for refunding the sales or use tax paid on purchases made in this state.

FOREIGN REGISTERED VESSEL AND AIRCRAFT PROGRAM (FRVAP)

815.500

The purpose of this program is to collect the use tax on the storage, use or other consumption of vessels and aircraft that are documented or registered to an out-of-state address, but are being assessed personal property tax in California. CUTS reviews property tax rolls in comparison with information obtained from the FAA and the U.S. Coast Guard. Any discrepancies such as changes in ownership or addresses recorded both in and out of state are verified for use tax paid.

Although both undocumented and documented vessels are assessed personal property tax, CUTS does not pursue undocumented vessels through this program since DMV collects use tax on the purchase at the time of registration.

SOURCE INFORMATION

815.505

CUTS receives tapes from both the Federal Aviation Administration and the U.S. Coast Guard to compare with personal property information obtained from various county assessors. The compilation results in a list of possible leads, which are further, investigated by CUTS staff. County assessor records are reviewed for specific information regarding sales or use tax paid on the purchase.

RETURNS

815.510

Refer to CPPM Sections 815.215 and 815.310 for documented vessels and aircraft.

MEASURE AND DUE DATE

815.515

CONSUMER USE TAX

Refer to CPPM Sections 815.220 and 815.315 for documented vessel and aircraft due dates.

EXEMPTIONS AND EXCLUSIONS

815.520

Refer to CPPM Sections 815.240 and 815.320 for vessel and aircraft exemptions and exclusions.

ADDITIONAL INFORMATION

815.525

Section 220.5 of the Revenue and Taxation Code allows for an exemption from personal property taxation of an “aircraft of historical significance.” This exemption does not apply to use tax.

The Soldier’s and Sailors Relief Act also exempts military personnel from personal property taxation in specific circumstances, but is “inapplicable to one-time transactions taxes, such as sales and use taxes.”

MAIL ORDER PROGRAM

815.600

Use tax payments for out-of-state purchases made by California residents through the mail are not handled by CUTS. Taxpayers can make payment at any Board office by completing a return or by completing the tear out panel in Publication 79B, which is also available on the Board’s website.

EXEMPTIONS AND EXCLUSIONS**820.000**

Any exemption from use tax or claim that the purchase of the tangible personal property is not subject to the use tax must be supported by documentation. Each claim should be well documented even though evidence may vary considerably. Taxpayers requesting exemption from the use tax under any of these exemptions or exclusion should be referred to Publication 52, How to Request an Exemption from the California Use Tax. The following section explains the exemptions and exclusions most common to CUTS programs.

NOT PURCHASED FOR USE IN CALIFORNIA**820.005**

In general, vehicles, undocumented vessels or aircraft purchased outside California that are subsequently brought into this state and used here, are presumed to have been purchased for use in California and are subject to the use tax. However, when the purchaser can demonstrate that the vehicle, undocumented vessel, or aircraft was not purchased for use in California but was purchased for use elsewhere, the purchase may be excluded from the use tax. Proof that the property was not purchased for use in California can be shown as follows:

90 Day Test - If a vehicle, undocumented vessel or aircraft is purchased and used outside of California for more than 90 days prior to the first entry into this state, the purchase is excluded from the use tax. Shipping time or time of storage prior to shipment into California is not included as part of the 90-day period.

6-Month Principal Use Test - If the vehicle, undocumented vessel or aircraft enters California within 90 days from the date of purchase, it is presumed to have been purchased for use in this state unless documentation is provided to show the vehicle, undocumented vessel or aircraft was first functionally used outside the state prior to its entry into California and it is used or stored outside of California one-half or more of the time during the six-month period immediately following its first entry into this state.

(If the vehicle, undocumented vessel or aircraft was purchased for use in interstate or foreign commerce refer to section 820.010.)

Reference: RTC section 6247 and 6248, Regulation 1620(b)(3)

If the purchaser is claiming the vehicle, undocumented vessel or aircraft was not purchased for use in California and the 6-month principal use test period has not yet expired the following applies:

Encourage the purchaser to pay tax to DMV to avoid incurring additional penalty and/or interest charges. A request for refund may be submitted at the end of the test period once it is determined that the use tax is not due.

The Board cannot withhold registration at DMV when a purchaser is claiming an exemption and the exemption period has not expired. If the purchaser is adamant about not paying the tax because they are exempt, issue the BOE-111. The purchaser must still show delivery and purchase outside the state to obtain the BOE-111.

Advise the purchaser that issuance of the BOE-111 at this time only allows registration at DMV without paying the use tax upon registration, but does not confirm that the exemption requirements have been met. The purchaser must provide the documentation to support the exemption at the end of the test period or they will be billed by BOE for the use tax due, plus any applicable penalty and interest charges.

Present notification letter (BOE-111-AT or IHSL-111-CUTS) to purchaser to advise him/her of the requirement to support his/her claim and that he/she may choose to pay the tax pending the completion of the exemption period and review of the documentation.

Forward copies of all BOE-111 documentation to CUTS Vehicle Team Supervisor as "Exemption Claimed, Test Period Not Yet Expired."

CONSUMER USE TAX

INTERSTATE OR FOREIGN COMMERCE 820.010

An exception from the use tax applies to tangible personal property that is purchased for use and is used in interstate and foreign commerce prior to its first entry into California and is thereafter used continuously in interstate or foreign commerce both within and without California. Generally, property (except vehicles and aircraft) used exclusively within California does not qualify. This means that the property must travel to destinations outside California and cannot operate solely between destinations within California. [See Regulation 1620(b)(2)(B).]

To qualify for the exception the property must be first functionally used in interstate or foreign commerce outside California before entering this state. If the first functional use occurs in California the property is subject to tax. In addition, property brought into California within 90 days from the date of purchase is presumed to have been purchased for use in this state unless documentation is provided to show the following:

For tangible personal property in general (including vessels): The property was used or stored outside California one-half or more of the time during the six-month period immediately following its first entry into this state.

However, vehicles and aircraft purchased for use in interstate or foreign commerce may be exclusively used in California and still qualify for the exception from the use tax, provided the purchaser can prove that the vehicle or aircraft was not purchased for use in California. For vehicles and aircraft, use in interstate commerce means that at least one package or passenger has its origin in one state or country and its destination in another. As such, vehicles or aircraft operating entirely within the boundaries of California that carry at least one package or passenger with an origin or destination outside California are considered to be used in interstate or foreign commerce for that trip or flight.

For vehicles and aircraft: To determine if a vehicle or aircraft qualifies for the exception from tax for use in interstate commerce, the property must be first functionally used in interstate or foreign commerce outside California before entering this state, then apply the six month principal use test as stated in Regulation 1620(b)(4).

For vehicles: One half or more of the miles traveled by the vehicle during the six month period immediately following its entry into this state are commercial miles traveled in interstate commerce.

For aircraft: One half or more of the flight time traveled during the six month period immediately following its entry into this state is commercial flight time traveled in interstate commerce.

For examples of what constitutes interstate commerce for vehicles and aircraft, see Regulation 1620(b)(4) examples 1 to 12.

COMMERCIAL DEEP SEA FISHING 820.015

Tax does not apply to watercraft principally used in commercial deep sea fishing operations outside the territorial waters of California. It shall be rebuttably presumed that “persons engaged in commercial deep-sea fishing operations” do not have less than \$20,000 in gross receipts per year from their fishing activities. Note: It is not material to the application of tax whether a vessel is documented with the U.S. Coast Guard or undocumented and registered with DMV.

Reference: Revenue and Taxation Code section 6368, Regulation 1594

AIRCRAFT SOLD TO COMMON CARRIERS 820.020

Generally, tax does not apply to aircraft sold to persons who use the aircraft as a common carrier under authority of the laws of this state, of the United States, or any foreign government, during the first twelve (12) months of operational use. This also extends to aircraft that are leased to common carriers. The use

tax law provides a rebuttable presumption that a person is not engaged in business as a common carrier with regard to aircraft purchased after January 1, 1997 unless the yearly gross receipts from such activity exceed 20% of the purchase price of the aircraft, or \$50,000, whichever is less.

If the first twelve months has not yet expired by the due date of the use tax return, any available documentation should be submitted and the remaining required documentation submitted once the test period has expired.

Reference: Revenue and Taxation Code sections 6366 and 6366.1, Regulation 1593

FAMILY TRANSFERS

820.025

Revenue and Taxation Code section 6285 provides an exemption from the use tax when the person selling the property is a parent, grandparent, grandchild, child, or spouse of the purchaser, or by the brother or sister of the purchaser if both are minors (under the age of 18) and related by blood or adoption; and the seller is not engaged in the business of selling the type of property for which the exemption is claimed.

This exemption does not extend to stepparents, step-grandparents, step-grandchildren, stepsiblings, or stepchildren. There must be a legal adoption for these relations to fall under this specific tax exemption. Claimants must provide documentation to show proof of the relationship and age, if transfer is between minors.

DMV and HCD may allow the transfer of vehicles/mobilehomes or vessels between qualified family members without requiring a use tax clearance from the Board.

Reference: Revenue and Taxation Code section 6285, Regulations 1610(b)(2)(A), 1610.2 (b)(1)(B)(1). See also Publication 52

GIFT

820.030

The gift of a vehicle, vessel or aircraft is not subject to use tax. The transfer of a vehicle, vessel, or aircraft must be made without consideration to be a gift. Examples of consideration include cash, credits, receipts, the fair market value of any trade, including trades of equal value, or the assumption of any liability. A certificate of use tax clearance (BOE-111) must be obtained in order to effect registration of vehicles, vessels and aircraft obtained by gift.

OTHER EXEMPTIONS

820.035

In addition to the above, there are other types of exemptions not listed on the various Consumer Use Tax returns that can be claimed with the required documentation. The exemption claimed should be explained upon registration at DMV or HCD or on the use tax return under "Other exemptions."

PURCHASES FOR RESALE

820.040

Property purchased for resale may be purchased without tax provided the purchaser makes no use of the property except demonstration and display in the course of offering the property for sale.

Reference: Regulation 1669

MILITARY PERSONNEL

820.045

When a member of the armed forces on active duty, or the spouse of a member on active duty, contracts to purchase a vehicle outside California before the member receives orders transferring such member to California, no use tax is due based upon registration of the vehicle in California pursuant to the transfer.

However, the member will be considered to have made the independent determination to use the vehicle in California if he/she contracts to purchase the vehicle after receipt of official orders of transfer. Unless the use is otherwise not subject to tax, the use tax will apply.

The person will be considered to have made the independent determination to use the vehicle in California without regard to the time of receipt of official orders of transfer, if at the time he/she contracts to purchase the vehicle, arranges to take receipt of the vehicle in California. This applies when purchase

CONSUMER USE TAX

arrangements are made any time during a scheduled deployment, regardless of the date of orders to return to California.

“Date of Contract to Purchase” applies to service personnel and their spouses only, whereas the actual date of delivery governs purchases made by non-service personnel.

All the foregoing has no application to mobilehomes and commercial coaches, as they are not included in Revenue and Taxation Code section 6249. Mobilehomes located on military bases or installations are required to be annually registered, and the purchase by resident or non-resident military is subject to tax.

Reference: Revenue and Taxation Code section 6249. See also CPPM 815.525

INDIAN RESERVATIONS

820.050

In general, tax does not apply to sales of tangible personal property made to Indians who reside on an Indian reservation, if the property is delivered to the purchaser and ownership to the property transfers to the purchaser on the reservation, and the property is thereafter used on the reservation 50% or more of the time during the first 12 months.

This exemption applies similarly to sales to partnerships where all of the partners are Indians. In those instances involving purchases by a husband and wife, and both parties claim to be Indians, evidence to support the full exemption is required from both spouses.

If the property is sold to and delivered to a husband and wife on the reservation, but only one of the purchasing spouses is an Indian, a one-half interest in the property is exempt from tax. The half interest in the property attributable to the non-Indian is subject to use tax. The proration of the exemption will be exactly 50/50 regardless of the degree of Indian blood of the Indian spouse. A certificate of use tax clearance will only be issued in the name of the Indian spouse and the other spouse must pay the use tax directly to the Board.

Reference: Regulation 1616(d)

PURCHASES FROM U.S. GOVERNMENT

820.055

All purchases of tangible personal property from any unincorporated agency or instrumentality of the U.S. Government are exempt from the use tax, except purchases from the Surplus Property Board or its successor agency and property included in any contractor's inventory. As such, the following types of transactions are not subject to the use tax.

A purchase of property from a U.S. Marshall pursuant to an order of a Federal Court. (See Annotation 560.0260)

A purchase of property in accordance with the provisions of Title 40 U.S.C.A. section 481(c) from any executive agency authorized by the Office of Federal Procurement Policy. Any transaction carried out under the authority of this section must be evidenced in writing by the Office of Federal Procurement Policy.

Surplus property from the U.S. Government transferred to any state, county or local government entity without consideration, except for what is called a "nominal service charge."

Note: Sales made under the authority of Title 40 U.S.C.A. section 484 or IRC section 6335 are taxable (See Annotations 560.0174 and 560.0170).

Reference: Revenue and Taxation Code section 6402

FOREIGN CONSUL

820.060

In general, neither sales nor use tax applies to the sale or use of tangible personal property sold to foreign consular officers, employees, or members of their families identified by a U.S. Department of State Tax

COMPLIANCE POLICY AND PROCEDURES MANUAL

Exemption Card. In addition to the exemption provided, the purchase or lease of a vehicle by a foreign consular officer, employee, or member of their family who does not hold a Tax Exemption Card will be exempted from the sales and use taxes if an identification letter is furnished directly to the retailer by the Office of Foreign Missions, U.S. Department of State.

Reference: Regulation 1619

**CERTIFICATE OF USE TAX CLEARANCE
(BOE-111 AND BOE 111-B)**

825.000

**BOE-111 (VEHICLES/MOBILEHOMES/COMMERCIAL COACHES)
AND BOE-111-B (VESSELS)**

825.005

When a registrant claims exemption from the use tax on a transfer of a vehicle/mobilehome/commercial coach or undocumented vessel, DMV or HCD may require a BOE-111/111-B to complete registration without payment of the use tax. The BOE-111/111-B is issued by the Board in the following situations:

The registrant claims an exemption and provides sufficient documentation to confirm use tax is not due.

The registrant claims an exemption that may qualify, but the exemption period has not expired. The registrant must provide documentation that shows delivery/possession took place out of state to proceed with this claim.

The registrant pays the use tax to the Board.

The registrant has requested an Installment Payment Agreement that has been approved and will be paying the use tax under that agreement. A billing is issued for all approved payment agreements.

NOTE: A BOE-111/111-B is never issued for a documented vessel or an aircraft.

References: CPPM 655.034-038, 707.000, 708.000, Revenue and Taxation Code section 6422.1. See also Publication 52

DMV/HCD PROCESSING

825.010

Initial contact with the taxpayer occurs when the taxpayer presents the application for registration of a vehicle/mobilehome or undocumented vessel to DMV/HCD. Sales tax transactions are recognized by the presence in the registration documents of a vehicle dealer's Report of Sale or a Vessel Dealer or Manufacturer's Sales Tax Certification (DMV form BOAT110). On non-dealer transactions, the DMV/HCD interviewer must make a decision as to the applicability of the use tax. If the DMV/HCD interviewer determines the use tax is due and the taxpayer disagrees, the taxpayer is instructed to file a claim for exemption (clearance) from the tax with the Board.

If the registrant has purchased a vessel/trailer combination and does not have a breakdown of the purchase price for each item, DMV will allocate \$1.00 in use tax to the trailer with the balance applied to the vessel.

CUTS PROCESSING

825.015

Requests for BOE-111/111B received by CUTS are assigned a SIF number in pending registration for review and recommendation.

All requests claiming exemption for the principal use test are monitored by CUTS at the end of the 6-month test period. If there is insufficient documentation to substantiate the claim, CUTS will set up the taxable activity registration (TAR) and issue a notice of determination for the use tax due.

DISTRICT OFFICE PROCESSING

825.020

Requests by mail/fax or walk-ins for a BOE-111/111-B should be resolved in the district office and should not be forwarded to CUTS for a decision. If necessary, district staff may obtain assistance from CUTS by phone or mail.

If the taxability cannot be determined at the time of the request (e.g. test period not yet expired or pending receipt of additional documentation) encourage the taxpayer to pay. The use tax due may be paid either directly to the Board for issuance of a BOE-111/111-B, or to DMV to complete the registration process. If a claim for exemption is pursued by the taxpayer at the end of the test period, a request for refund of the tax can be made through the Board.

If the transaction is taxable and payment is made in the district office, please refer to Voluntary Payments CPPM 840.005 for processing instructions.

PREPARATION OF FORM BOE-106, VEHICLE/VESSEL USE TAX INFORMATION 825.025

When a request for use tax exemption is received, a form BOE-106, Vehicle/Vessel Use Tax Information, should be prepared for each request. The front of the form is completed by the taxpayer. The back of the form is to be completed by Board staff and approved by a supervisor or designee.

The completed form should indicate that the documentation required to verify the exemption has been provided, and copies of the documentation should be attached to the request.

REFERRALS TO CUTS 825.030

Taxpayers should not be told to contact CUTS directly unless a CUTS account number (SA, SB, SP, or SI UT indicator) has been assigned. Districts should refer BOE-111 packets to CUTS under the following circumstances:

A BOE-111 was issued for registration purposes, but tax was not collected because taxpayer was adamant about qualifying for the 6-month principal use exemption. CUTS will follow-up at the end of the 6-month test period to obtain documentation to support the claim. (See CPPM 820.005)

Information from a request discloses a multiple transfer in which the prior owner did not register the vehicle or vessel after a prior sale. Copies of documentation on all parties involved should be forwarded to CUTS.

Referrals should include a complete copy of the BOE-111 packet with a brief explanation, and the district contact's name and phone number.

EXEMPTIONS 825.035

DMV and HCD must consider whether there is a sale and purchase for a consideration. If there has been a purchase for consideration, DMV and HCD will consider the purchase exempt from the use tax when a review of the application for registration submitted reveals circumstances as follows:

Family Transfers – DMV and HCD may allow the transfer of vehicles/mobilehomes or vessels between qualified family members without requiring a use tax clearance from the Board.

Each claim for exemption should be well documented, although the evidence submitted to substantiate a claim might vary. Please refer to CPPM 820.000 for specific information on exemptions.

PREPARATION OF FORM BOE-111 OR FORM BOE-111-B 825.040

Forms BOE-111 and BOE-111-B are press-numbered for control purposes. Voided forms will be retained for three years. The forms should be maintained and accessible only to the Receipts Custodian and the District Administrator or CUTS supervisor.

The use tax clearance certificate is prepared only in original and is delivered to the person requesting the clearance.

The certificate is to be typewritten. If an error is made, a new Form BOE-111 or BOE-111-B must be prepared. Any alteration or erasure voids the certificate.

CONSUMER USE TAX

The use tax clearance certificate is completed to show the name of applicant as it will appear on the vehicle/vessel, mobilehome or commercial coach registration records; make/year model; license/decal or CF number; vehicle/hull identification number or serial number; the date of issuance and the issuing office.

Forms BOE-111 and BOE-111-B are issued by the district, branch office or CUTS by an employee authorized by the District Administrator or CUTS supervisor. A list of employees authorized to sign and issue certificates must be maintained in each office. The person who approves the Form BOE-106 may also sign the certificate. However, if the same person prepares and approves the Form BOE-106, a different person must sign the certificate. Rubber stamp signatures will not be used.

A single BOE-111/111B may be issued for bulk transfers. Note on the BOE-111/111-B (under year model and VIN areas) the following: "See Attached Schedule" and attach the schedule to the BOE-111/111-B.

After the Form BOE-111/111-B is issued, the press-number of the form and the name of the employee who signs the form are entered on the respective lines of the Form BOE-106.

In those situations where the use tax is collected at the time of issuance of the BOE-111 or BOE-111-B, the certificate press-number should be entered on the tax return below the name and address of the taxpayer.

Note: For control and accountability of press numbered forms BOE-111 and BOE-111B, refer to the Cashiering Manual.

DETERMINATIONS, DEMANDS AND STATEMENTS

830.000

A notice of determination (NOD), demand or statement is issued by CUTS when information reveals a use tax liability exists. In general, notices issued by CUTS are handled in the same manner as for sales tax accounts. In order to issue a NOD, taxable activity registration must be established.

PENALTY AND INTEREST

830.005

Interest and/or penalties apply to the use tax where:

A purchaser is delinquent in transferring registration of the vehicle, undocumented vessel, or mobilehome through DMV or HCD. The purchaser is subject to penalty, and/or interest when application for registration with DMV or HCD is not made within 30 days of the change in ownership, even if the change in ownership was never registered with DMV or HCD, as in the case of some multiple transfers (Revenue and Taxation Code section 6484 and 6485).

A purchaser is late in filing a return with the Board (Revenue and Taxation Code section 6591).

A purchaser underpaid or failed to pay the tax to DMV, HCD or the Board (Revenue and Taxation Code section 6511).

A purchaser of a vehicle, vessel, or aircraft registers it outside the State of California for the purpose of evading the payment of taxes. A 50 percent penalty of any tax determined to be due on the sales price of the vehicle, vessel, or aircraft may be assessed (Revenue and Taxation Code section 6485.1).

CONSUMER USE TAX

The following tables illustrate specific situations in which penalty and interest may apply to use tax due on purchases of vehicles, undocumented vessels or mobilehomes:

Purchaser Has Applied For Registration with Department Of Motor Vehicles or Department Of Housing and Community Development

HOW TAX WAS PAID	HOW PENALTY AND INTEREST APPLIES
Use tax was paid timely to DMV/HCD.	No penalty or interest is due.
Use tax was paid timely to DMV/HCD, but tax was underreported at the time of registration.	The Board issues a NOD for the additional tax per section 6481. Interest is due on additional tax per section 6482. No penalty for late payment applies because section 6591 does not apply to NODs. Penalties for negligence, intentional disregard, or fraud may be assessed, if warranted, on the <u>additional</u> tax per sections 6484 or 6485.
Use tax was not paid timely to DMV/HCD.	Section 6292 paragraph (b) provides the late payment penalty applies per section 6591 and is collected by DMV/HCD, but no interest is due.
Use tax was not paid timely to DMV/HCD, and the tax was underreported at the time of registration.	Section 6292 paragraph (b) provides the late payment penalty applies per section 6591, but no interest is due on the <u>tax paid to DMV/HCD</u> . However, when the Board issues a NOD for the <u>additional</u> tax per section 6481, interest is due on the additional tax assessed by the Board per section 6482. Penalty may be due, if warranted, on the additional tax per sections 6484 or 6485 for negligence, intentional disregard or fraud.

Purchaser Has Not Applied For Registration With Department Of Motor Vehicles Or Department Of Housing And Community Development

HOW TAX WAS PAID TO THE BOARD	HOW PENALTY AND INTEREST APPLIES
No return was filed.	NOD is issued and penalty assessed by the Board on the unpaid tax (section 6511-Failure to file a return). Interest is assessed per section 6513. If warranted, fraud penalty may also be assessed (section 6514).
A return was filed, but the use tax transaction was not reported.	NOD is issued for the estimated tax. If warranted, the penalty for either negligence or fraud may be assessed pursuant to section 6484 or 6485. Interest is due per section 6513.
A return was filed late with the correct amount of tax paid.	Penalty and interest are due per section 6591(a).
A return was filed late with no remittance.	A demand is issued for tax. Late penalty and interest due per section 6591.

REQUEST FOR RELIEF OF PENALTY AND/OR INTEREST

830.010

Taxpayers may request relief from any penalty and/or interest assessed on use tax by filing a written request signed under penalty of perjury, stating the facts upon which the claim for relief is based.

If the taxpayer has made a late application with DMV/HCD, the penalty is collected at the time of registration. A request can be made at DMV/HCD after which the completed request is forwarded to CUTS.

Reference: Revenue and Taxation Code sections 6592, 6593.5, 6596

PETITIONS

830.015

Petition requests are received and tracked by the appropriate CUTS team then forwarded to the Petition Section for processing. Petition requests received in district offices should be forwarded to CUTS.

REFUNDS

830.020

Requests for refunds of use tax and/or penalty under taxable activity types SA, SB, SP or SI are to be forwarded to CUTS for preliminary review prior to forwarding to the Refunds Section.

COLLECTIONS

830.025

The Centralized Collection Section (CCS) is responsible for the collection of use tax due on final liabilities involving any of the CUTS programs. This also includes skip tracing, requests for relief from penalty and Installment Payment Agreements.

DISTRICT OFFICE RESPONSIBILITIES

840.000

VOLUNTARY PAYMENTS

840.005

If a taxpayer wishes to make a voluntary payment of use tax on any CUTS program prior to receiving a return from CUTS, he/she should not be told to wait for a notice from the Board before making payment. Such a delay could result in penalty and/or interest charges incurred. Any payment, when offered, should be accepted along with a completed use tax return signed by the taxpayer. If a return form is not available, include as much of the following information as possible in writing, along with payment:

Taxpayer's name, address and daytime phone number

Purchase date

Purchase price and a copy of the bill of sale

Registration number (license plate number, CF number, USCG documentation number, tail or "N" number)

Make, Model, Year, Serial or VIN number or Name (documented vessel)

Item location/situs (where it is registered, moored/berthed, tied down/hangared)

Any available information on the seller

Staff should confirm the correct tax rate is used. The applicable tax rate for vehicles and mobilehomes is that rate in effect on the date of purchase or the date the property entered California for the district in which the taxpayer's address is located, or, for documented vessels and aircraft, the district of actual situs. (Refer to the appropriate CUTS program section for due dates.)

For on-line remittances, district staff should create a Taxpayer Identification Number (TIN) and add a comment on the TIN record identifying:

Amount of payment received

Remittance ID number

Information regarding transaction as outlined above (This information is necessary for the creation of taxable activity registration by CUTS).

A copy of the On-Line Remittance Tally Report should be forwarded to CUTS, MIC: 37. Attached to the report is a printout of the Client Maintenance screen and any documentation presented by the taxpayer (e.g. bill of sale, etc.) for **each** payment.

Note: The tear-out portion of Publication 79 and 79A for vessels and aircraft respectively, can also be used. Attach the completed portion to the Client Maintenance screen print and a comment identifying the amount and remittance ID number.

REFERRAL OF ACCOUNTS TO DISTRICTS

840.010

CUTS may refer information to district offices to assist in the investigation of possible use tax leads that may involve retailers who hold or are required to hold seller's permits. In certain situations, the district may also assist in the investigation of established accounts if requested.

Brokers – Effective January 1, 1996, a person making a vessel or aircraft purchase from another person through a broker, may be relieved of the use tax liability if they establish sales or use tax was paid to the broker, by providing a copy of the receipt from the broker showing payment of tax.

If the broker has no seller's permit but documentation shows tax has been collected, a memo is to be sent to the Chief of Field Operations with the name, address, phone number of the broker and all pertinent information involving the transaction (e.g. purchase date, price, amount of tax, etc.). The Chief of Field

COMPLIANCE POLICY AND PROCEDURES MANUAL

Operations will forward the information to the appropriate district office for investigation. Results are to be sent back to CUTS.

If the broker has a seller's permit, a memo is sent to the District Principal Auditor in the district where the broker is located for future audit selection purposes. The memo should include the same information provided to the Chief of Field Operations as above.

Dealers – CUTS will notify the appropriate district when it is determined that an aircraft or vessel was purchased from a dealer with an active seller's permit and the purchaser provides proof they paid sales tax reimbursement to that dealer. This information is provided for use in the district's audit selection process.

Taxpayer Requests – At a taxpayer's request, CUTS accounts can be referred to the closest district office along with copies of pertinent file information and CUTS guidelines related to the particular exemption the taxpayer is seeking. The purpose is to offer the opportunity for quicker resolution through face to face meeting between the taxpayer and district staff. Upon completion of the assignment, district office staff provides CUTS with a written recommendation regarding the exemption along with the number of hours spent on the case.

MISCELLANEOUS INFORMATION

850.000

STATUTE OF LIMITATIONS

850.005

The Board, through regular audits and other sources, locates information on and investigates sales of vehicles, vessels and aircraft on which tax has not been reported and paid. If a taxpayer has not filed a return, the Board generally has eight years from the due date of the return in which to issue a billing. If a taxpayer has filed a return but has not reported the tax due, the Board generally has three years after the due date of the return, or the date the return was filed, whichever is later, to issue a determination.

Reference: Revenue and Taxation Code section 6487

INSTALLMENT PAYMENT AGREEMENTS

850.010

Effective January 2, 2001, Revenue and Taxation Code section 6832.6 requires the Board to notify purchasers who have incurred a use tax liability of the option to enter into installment payment agreements. CUTS includes the notice BOE-126 "You May Qualify for an Installment Payment Agreement" with any return mailed. If a Notice of Determination/Redetermination or Demand for Immediate Payment is issued, the billing should also include the same notification.

CUTS staff should advise taxpayers inquiring about the installment payment agreement to:

- Complete the return form, including calculating the amount of use tax due. Also, include a copy of the bill of sale or statement from the seller that verifies the declared purchase price.

- Prepare a letter or completed BOE-126 [kly28] outlining the specific dates and amounts of payment to be made.

- Send the completed return, a letter outlining the payment proposal, and include the first payment on or before the due date on the return. (If the due date has already passed, advise taxpayer to send payment within (20) days of the date of the contact with the taxpayer.

NOTE: If the taxpayer has received a NOD or Demand Notice a return is not required.

When a return is received by CUTS indicating an installment payment agreement is being requested, a demand or statement is issued and the information forwarded to Centralized Collection Section for evaluation.

REQUEST FOR DMV INFORMATION

850.015

If there is a dispute as to whether the use tax was paid to DMV by a taxpayer on a purchase of a vehicle or vessel, Board staff can request information from CUTS to resolve those disputes. CUTS has authorization to access DMV vehicle/vessel registration, use tax payment information and any additional information stored on microfilm.

Board staff requesting DMV registration or use tax payment information should send or fax requests to CUTS with as much of the following information as possible:

- Purchaser name and address

- Vehicle Identification Number (VIN) or Vessel Hull Identification Number (HIN)

- Make and Year Model

- License plate number or CF number

District staff should allow up to four weeks routine processing time for such requests.